

STEP DIPLOMA IN TRUSTS AND ESTATES

NORTHERN IRELAND

Syllabus

This document contains the detailed syllabus for the STEP Diploma in Trusts and Estates (Northern Ireland). The Diploma provides detailed practical coverage of the law and procedures involved in trust and estate practice in Northern Ireland.

The Diploma comprises the following four papers:

- Administration of Estates
- Administration of Trusts
- Taxation of Trusts and Estates
- Trust and Estate Accounting

This syllabus should be read in conjunction with the course brochure, which explains the method of delivery and assessment, entry requirements and personal and business benefits of completing the programme.

The brochure, course dates and enrolment application form can also be found on the programme website www.cltint.com

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MODULE 1: VALIDITY OF THE WILL

This module covers:

- The requirements for the making of a will, including:
- When a will is not valid

By the end of this module you should be able to:

- Identify the requirements for the making of a will
- Explain the circumstances of privileged wills and statutory wills
- Understand the importance of article 5 of the Wills & Administration Proceedings (Northern Ireland) Order 1994
- Explain who may witness a will
- Advise when a will is not valid

MODULE 2: THE PREPARATION AND CONSTRUCTION OF WILLS

This module covers:

- The role of professionals in will preparation
- When negligence issues may arise
- How the court approaches issues on the construction of a will
- The remedies available to deal with problem wills

By the end of this module you should be able to:

- Describe the role of professionals in will preparation
- Identify when negligence issues may arise
- Understand how the court approaches issues on the construction of a will
- Be aware of the remedies available to deal with problem wills

MODULE 3: THE LAYOUT AND CONTENT OF WILLS

This module covers:

- The general layout of a will
- The standard clauses used in a will
- The different types of gift that may be given in a will

By the end of this module you should be able to:

- Describe the general layout of a will
- Identify the standard clauses used in a will
- Explain the different types of gift that may be given in a will

MODULE 4: REVOCATION AND ALTERATION OF A WILL

This module covers:

- The ways in which a will may be revoked
- The effect of marriage and divorce on a will
- The effect of alterations in a will

By the end of this module you should be able to:

- Understand the ways by which a will may be revoked, including:
 - By will or codicil
 - By remarriage or divorce
 - By destruction
- Explain the doctrine of dependent relative or conditional revocation
- Explain the effect of divorce on a will
- Understand the effect of alterations in a will

MODULE 5: BENEFICIARIES AND BENEFICIAL ENTITLEMENT

This module covers:

- The various types of legacy that might appear in a will
- The requirements for ascertaining the identity of beneficiaries in a will
- The position where a beneficiary predeceases the testator
- The relevance of survivorship clauses to will drafting
- The principles of forfeiture

By the end of this module you should be able to:

- Identify the requirements for ascertaining the identity of beneficiaries in a will where there is doubt
- Identify the position where a beneficiary predeceases the testator
- Explain the relevance of survivorship clauses in a will
- Understand the principles of forfeiture

MODULE 6: DONATIO MORTIS CAUSA

This module covers:

- The meaning of donatio mortis causa
- The requirements for a valid donatio mortis causa
- An explanation of when the doctrine applies

By the end of this module you should be able to:

- Define what is meant by a donatio mortis causa
- Identify the requirements for a valid donatio mortis causa
- Explain when the doctrine applies

MODULE 7: INTESTACY

This module covers:

- The intestacy rules
- Entitlement to benefit under intestacy
- When intestacy occurs

By the end of this module you should be able to:

- Describe and apply the intestacy rules
- Identify who is entitled to benefit under an intestacy
- Explain how the intestacy rules apply to children
- Describe the position of personal representatives
- Recognise when an intestacy situation arises

MODULE 8: APPLYING FOR THE GRANT

This module covers:

- When a grant is required
- The steps necessary to obtain a grant
- The excepted estates procedure
- Delivery of the IHT account

By the end of this module you should be able to:

- Identify when a grant is required
- Explain the steps necessary to obtain a grant
- Describe what needs to be done if there are problems with the will
- Identify the documents that need to be lodged to obtain a grant
- Identify which of the deceased's assets are to be included for the purposes of IHT
- Explain the issues involved in valuing property for the purposes of the IHT account
- Describe the excepted estates procedure and process for the delivery of the IHT Account

MODULE 9: OBTAINING THE GRANT

This module covers:

- Who can obtain a grant
- The different types of grant and when they should be used
- The different types of oaths relating to probate and letters of administration
- The different special forms of grant and when they should be used

By the end of this module you should be able to:

- Identify who can obtain a grant
- State the different types of grant
- Describe the different oaths relating to:
 - Probate
 - Letters of administration with the will annexed
 - Letters of administration
- Identify the different special forms of grant and explain when they should be used

MODULE 10: ADMINISTRATION OF THE ESTATE

This module covers:

- The definition of a solvent and insolvent estate
- The statutory order for the payment of debts
- Directions in a will for the payment of legacies
- The duties and responsibilities of personal representatives in relation to the administration of the estate

By the end of this module you should be able to:

- Distinguish between a solvent and insolvent estate
- Statutory orders for the payment of debts
- Identify whether or not there are directions in a will for the payment of legacies
- Explain the duties and responsibilities of personal representatives in relation to administering the estate, in particular:
 - Finding creditors
 - Finding beneficiaries
 - Dealing with personal injury and fatal accident claims

MODULE 11: Joint Wills, Mutual Wills and Secret Trusts

This module covers:

- What is meant by a joint will
- The characteristics of a mutual will
- The characteristics of secret trusts

By the end of this module you should be able to:

- Define what is meant by a joint will
- Identify the characteristics of a mutual will
- Distinguish between mutual wills where a constructive trust has been created and those where it has not
- Identify the characteristics of secret trusts and half-secret trusts

MODULE 12: The Inheritance (Provision for Family Dependents) (Northern Ireland) Order 1979

This module covers:

- When the Inheritance (Provision for Family and Dependents) (Northern Ireland) Order 1979 applies
- Persons eligible to make a claim under the Order
- What type of financial orders may be obtained as a result of a claim

By the end of this module you should be able to:

- Explain when the Order applies in relation to:
 - Spouses or civil partners;
 - Former spouses or civil partners;
 - Co-habitants;
 - Children;
 - Those treated as children of the marriage or civil partnership; and
 - Persons maintained by the deceased
- Define what is meant by reasonable provision
- Identify the factors taken into account by the court to assess reasonable provision
- Describe the financial orders that the court may make as a result of a claim under the Order

MODULE 13: Post- Death Variations

This module covers:

- The characteristics of:
 - A variation
 - A disclaimer
- The differences between the two and why one may be preferred to the other
- When a variation may be beneficial

By the end of this module you should be able to:

- Identify the characteristics of:
 - A disclaimer
 - A variation
- Describe the differences between the two and explain why one may be preferred to the other
- Explain when a variation may be beneficial

MODULE 14: Election and Satisfaction

This module covers:

- The definition of election and satisfaction
- When an election may be made
- The relevance of the doctrines to the administration of a deceased's estate
- When the requirements of the doctrine of satisfaction apply

By the end of this module you should be able to:

- Explain what is meant by election and satisfaction
- Identify when an election may be made
- Describe when the requirements of the doctrine of satisfaction apply

MODULE 15: Foreign Property and Wills

This module covers:

- Terminology relating to domicile and foreign wills
- The distinction between movable and immovable property
- The importance of the choice of law governing a will

By the end of this module you should be able to:

- Identify and use terminology relating to domicile and foreign wills
- Explain the distinction between movable and immovable property
- Describe the importance of the choice of law governing a will

MODULE 1: INTRODUCTION TO THE LAW OF TRUSTS

This module covers:

- The development of common law and equitable principles The distinction between movable and immovable property
- How the law of trusts has evolved
- The relationship between the parties to a trust
- A comparison of fiduciary relationships
- A comparison of the concept of trust with other similar concepts
- The use of trusts today

By the end of this module you should be able to:

- Explain the relationship between common law and equity and distinguish between legal and equitable rights
- Describe the nature of a beneficiary's equitable interest
- Explain how the trust concept has been allowed to develop
- Define the relationship between the parties to a trust
- Explain what is meant by a fiduciary relationship
- Describe the nature of the duties owed by a fiduciary to his principal
- Identify the fundamental features of a trust when compared with similar, but distinct, concepts
- State the ways in which trusts are used today

MODULE 2: CLASSIFICATION OF TRUSTS

This module covers:

- The rationale behind the classification of trusts
- The different types of trust

By the end of this module you should be able to:

- Explain why it is necessary to attempt to classify trusts
- Identify, describe and explain the following types of trust:
 - Statutory trusts, including the express and implied statutory provisions for their creation
 - Express trusts (and describe conditions under which they are created)
 - Implied and resulting trusts (and demonstrate why they are essentially the same type of trust)
 - Constructive trusts (and explain why the courts might impose a constructive trust)
 - Public/private trusts (and where trusts of imperfect obligation may arise)
 - Statutory trusts as defined by the Inheritance Tax Act

MODULE 3: FIXED INTEREST TRUSTS

This module covers:

- A review of the main features of fixed interest trusts including:
 - Life interest trusts
 - Protective trusts
 - Trusts of land
 - Accumulation and maintenance trusts
 - Trusts for minors
 - Simple or bare trusts
 - Will trusts and trusts on intestacy

By the end of this module you should be able to:

- Explain **and** differentiate between the following:
 - Life interest trusts
 - Protective trusts
 - Trusts of land
 - Accumulation and maintenance trusts
 - Trusts for minors
 - Simple or bare trusts
 - Will trusts
- Appreciate the rights of beneficiaries of different kinds of trust, and the limitations on those rights

MODULE 4: DISCRETIONARY TRUSTS

This module covers:

- A review of the key features of discretionary trusts including:
 - Choice of trustee
 - Uses of a letter of wishes in discretionary trusts
 - Rights of beneficiaries under a discretionary trust, and the limitations on those rights
 - Trusts for the disabled
 - Asset protection trusts

By the end of this module you should be able to:

- Explain the key features of a discretionary trust including:
 - The choice of the trustee
 - The use of a letter of wishes in a discretionary trust
 - The rights of beneficiaries under a discretionary trust, and the limitations on those rights
 - Trusts for the disabled
 - Asset protection trusts

MODULE 5: RESULTING TRUSTS

This module covers:

- The nature and types of implied and resulting trusts
- The situations where a resulting trust will arise

By the end of this module you should be able to:

- Identify the nature and types of implied and resulting trusts
- Analyse the situations where a resulting trust will arise
- Explain what happens on the failure of an express trust
- Explain what happens on the failure to divert the whole beneficial interest
- Understand the position on purchase in the name of another
- Understand the position on transfer into the name of others
- Determine when a trust will arise in the context of the family home

MODULE 6: CONSTRUCTIVE TRUSTS

This module covers:

- The nature of a constructive trust
- The situations where a constructive trust can arise
- The principle of proprietary estoppel

By the end of this module you should be able to:

- Understand the nature of a constructive trust
- Identify the situations where a constructive trust can arise
- Analyse the nature of the fiduciary relationship
- Understand the impact of a stranger's intermeddling with trust property
- Determine the extent of the 'dishonest assistance' principle
- Explain the consequences of fraudulent dealing with trust property
- Explain the principles behind the concept of mutual wills
- Outline the principle of proprietary estoppel
- Appreciate the uncertainties surrounding determination of ownership rights in property for cohabitants

MODULE 7: THE REQUIREMENTS FOR THE CREATION OF A VALID TRUST

This module covers:

- The three certainties
- Requirements for creating various types of trust

By the end of this module you should be able to:

- Describe the requirements necessary to create a valid trust
- Apply the three certainties of
 - Intention
 - Subject matter
 - Objects
- Explain why the settlor must have capacity to create the trust
- Describe why any declaration of trust of land must be evidenced in writing
- Appreciate that any disposition of an equitable interest must be in writing, and
- Explain the creation of fully and half secret trusts

MODULE 8: THE RULES AGAINST PERPETUITIES

This module covers:

- An explanation of the rules against perpetuities under both common law and statute

By the end of this module you should be able to:

- Ensure that a trust does not offend the rules against perpetuities

MODULE 9: PURPOSE TRUSTS

This module covers:

- The reasons why trusts established to benefit a purpose rather than persons are invalid
- The exceptions to the general rule
- The main features of a charitable trust

By the end of this module you should be able to:

- Explain the reasons why trusts established to benefit a purpose rather than persons are invalid
- Identify the exceptions to the general rule, namely:
 - An anomalous group of private trusts of imperfect obligation
 - Trusts in favour of incorporated associations
 - Charitable trusts which are valid
- Outline the main features of a charitable trust
- Provide a working definition of a charity
- Evaluate the content of charitable trusts
- Explain the extent of public benefit required for the trust to be classified as charitable
- Describe the operation of the cy-près doctrine
- Explain how charities are administered
- Outline the advantages of charitable status

MODULE 10: THE OFFICE OF TRUSTEE

This module covers:

- The role of trustee
- Who can act as trustee
- Rules for appointment and removal of trustees

By the end of this module you should be able to:

- State the responsibilities of a trustee
- Identify who can act as a trustee
- Explain how trustees are appointed
- Describe some special types of trustee
- Identify the rules on retirement and removal of trustees
- Explain how property is vested in new trustees

MODULE 11: FIDUCIARY AND GENERAL DUTIES OF TRUSTEES

This module covers:

- General duties of a trustee
- Trustee's duty to invest and investment powers
- The duties of conversion, apportionment and distribution

By the end of this module you should be able to:

- Explain the trustee's duties to:
 - Comply with the terms of the trust
 - Take control of the trust property
 - Act impartially
 - Take reasonable care
 - Keep accounts
 - Provide information
 - Act unanimously
 - Consult
 - Act personally
- Describe the trustee's duties in respect of investment of trust assets
- Outline the trustee's duties of conversion, apportionment and distribution

MODULE 12: POWERS OF A TRUSTEE

This module covers:

- Fiduciary powers
- How fiduciary powers should be exercised
- Trustees' general powers

By the end of this module you should be able to:

- Explain the general principles applicable to the exercise of a trustee's decision-making powers
- Describe how trustees should comply with fiduciary obligations and meet appropriate standards of care
 - Evaluate the extent of the trustee's powers of:
 - Maintenance
 - Advancement
 - Appointment
 - Appropriation
- Identify the trustee's other general powers

MODULE 13: BREACH OF TRUST

This module covers:

- The alternative actions that a trustee may take when faced with an anticipatory breach of trust
- The general principles of liability governing breach of trust

By the end of this module you should be able to:

- Explain the alternative actions that a trustee may take when faced with an anticipatory breach of trust
- State how courts measure loss in breach of trust cases
- Explain the extent to which a trustee may be indemnified or receive contribution from co-trustees
- Explain the potential defences that may be raised by a trustee who is being sued for breach of trust
- Describe the remedies available to courts to rectify loss resulting from a breach of trust
- Explain the proprietary remedy of tracing

MODULE 14: VARIATION OF TRUSTS AND SETTING TRUSTS ASIDE

This module covers:

- Variations without the assistance of the court
- Court powers to vary a trust
- The courts jurisdiction to vary a trust
- Setting aside of trusts by the courts

By the end of this module you should be able to:

- Explain the indirect ways in which a variation of the terms of a trust can be made without having recourse to the assistance of the court
- Outline the rules governing the court's inherent jurisdiction to vary a trust
- Describe the Hastings-Bass rule
- Identify the circumstances in which the courts will set aside a trust on the grounds of public policy
- Explain how the use of statutory provision can vary a trust
- Describe the rules governing trusts that are designed to evade creditors

MODULE 15: TAXATION ASPECTS OF TRUSTS

This module covers:

- The impact of taxation on the main types of trust

By the end of this module you should be able to:

- Evaluate the impact of taxation on the main types of trust, including:
 - Inheritance Tax
 - Income Tax
 - Capital Gains Tax
- Describe the tax treatment of trusts for disabled and other vulnerable beneficiaries
- Describe the transitional provisions applying to IIP trusts and trusts created before and after 22 March 2006

MODULE 16: DRAFTING AN EFFECTIVE TRUST DEED

This module covers:

- The key issues arising from the drafting of a trust deed
- Language, style and construction
- Specific drafting issues re
- The content of certain trust precedents

By the end of this module you should be able to:

- Outline the key issues arising from the drafting of a trust deed (settlement)
- Describe the impact of issues of language, style and construction
- Explain certain specific drafting issues including:
 - Definitions
 - Power to add and exclude beneficiaries
 - Overriding powers
 - Perpetuities
 - Life interests
 - Powers of appointment, resettlement and advancement
 - Discretionary trusts
 - Special clauses
- Describe the content of certain trust precedents

MODULE 1: INCOME TAX IN THE PERIOD TO THE DATE OF DEATH AND DURING THE ADMINISTRATION OF AN ESTATE

This module covers:

- The steps required for calculating income tax liabilities in the period up to the date of death
- How income is taxed during the period of administering the estate of a deceased
- The basis of taxation applicable to estates and the way in which beneficiaries may recover tax
- How the net income of an estate is calculated and certified

By the end of this module you should be able to:

- Describe the importance of maintaining up-to-date accounts of an estate in administration
- Identify which parts of a probate file should be checked to verify that all the necessary tax returns have been submitted
- Identify whether it is safe, from the point of view of income tax, to pay out the rest of the money in an estate
- Calculate the residuary income of an estate and to divide it among the people entitled to it
- Identify a POAT situation when it arises and explain what to do, either to ensure that the tax is paid, or to opt out of the tax by election

MODULE 2: INCOME TAX RULES APPLICABLE TO TRUSTS

This module covers:

- The usual rates of income tax applied to trusts
- The accrued income scheme
- The difficulties in the tax treatment of trusts where companies issue extra shares by way of scrip dividend or demerger
- The tax treatment of trusts in which the settlor has an interest
- The difference between a bare trust and a substantive trust and how bare trusts are subjected to income tax
- An overview of special forms of trust commonly found in practice

By the end of this module you should be able to:

- Complete the 'accrued income scheme' on the trust and estate tax return
- Explain the tax treatment of special distributions by companies to trustees by way of scrip dividend or demerger
- Identify when a trust is subject to the interest of a settlor and how to deal with the income in the trust
- Describe what is meant by the tax pool and how to manage it
- Identify the taxation reliefs available to vulnerable beneficiaries
- Identify a bare trust and explain how to deal with the income arising in it

MODULE 3: CAPITAL GAINS TAX (CGT) INTRODUCTION

This module covers:

- The main features of CGT
- The computation of CGT after claiming relevant allowances
- How to claim relevant losses and reliefs
- Valuation issues relating to quoted securities and outline the principles for valuation of other assets
- The identification rules for CGT
- The basic structure of a CGT computation and how to draft an appropriate computation, through a proper understanding of the rules

By the end of this module you should be able to:

- Define basic terms relating to CGT, such as annual allowances, allowable expenses, and the different rates of CGT
- Prepare straightforward computations
- Explain the part disposal rules
- Apply the rules in relation to both roll-over and holdover
- Identify the rules in relation to entrepreneurs' relief
- Describe the circumstances where anti-avoidance rules may apply

MODULE 4: CAPITAL GAINS TAX (CGT) IN THE PERIOD TO THE DATE OF DEATH AND IN THE ADMINISTRATION OF ESTATES

This module covers:

- The main features of CGT arising by reason of a death and during the period of administration of an estate
- Computation of CGT arising in the administration period after claiming relevant allowances
- How to claim relevant losses and reliefs
- Valuation issues relating to quoted securities and the outline principles for valuation of other assets
- The way in which deeds of variation and disclaimers can affect the computation of CGT

By the end of this module you should be able to:

- Calculate CGT for the period up to the date of death and during the administration of an estate
- Explain the valuation principles for CGT on death
- Arrange disposals of securities in the administration period to the best advantage of the beneficiaries, having regard to the tax situation of each
- Explain the CGT possibilities of a DOV, and know when an election should be made in relation to such a deed

MODULE 5: CAPITAL GAINS TAX (CGT) RULES APPLICABLE TO THE ADMINISTRATION OF TRUSTS

This module covers:

- The charges to CGT arising when assets leave a trust fund
- The workings of holdover relief in relation to trusts
- Roll-over relief in relation to trusts
- The identification rules for CGT

By the end of this module you should be able to:

- Deal with the capital gains tax situation where a life interest comes to an end, whether on the death of the tenant for life or of any other person
- Evaluate the interaction of CGT and holdover relief and how they apply to trusts
- Explain the impact of the bed and breakfasting rules as applied to trusts
- Describe settlor interested trusts and the CGT treatment of these

MODULE 6: CAPITAL GAINS TAX (CGT) - THE FAMILY HOME AND OTHER LAND INCLUDING HIGH VALUE UK RESIDENTIAL PROPERTY (ATED)

This module covers:

- The type of transaction a trust or estate practitioner would encounter
- The main CGT rules that apply to the family home
- Those situations where principal private residence relief does not apply
- The types of transactions that are regarded as 'dealing in land' where CGT would be due

By the end of this module you should be able to:

- Describe the computation of PPR relief, in particular in relation to periods during which the taxpayer is not actually living in the house
- Identify the factors that determine the relief on land associated with a property
- Explain some of the case law on residence and trading in land
- Identify when PPR relief does not apply
- State how the anti-avoidance provisions apply

MODULE 7: INHERITANCE TAX ON LIFETIME TRANSFERS

This module covers:

- An overview of the lifetime transfer regime for inheritance tax (IHT)
- The basis of lifetime reliefs
- PETs and chargeable lifetime transfers
- The interaction between the reliefs and the transferred value for IHT purposes

By the end of this module you should be able to:

- Understand the broad scope of IHT in the context of lifetime gifting
- Identify and apply the main exemption from IHT
- Explain the broad principles of valuation of lifetime gifts
- Distinguish between PETs and CLTs
- Understand the IHT treatment of a failed PET

MODULE 8: INHERITANCE TAX - AGRICULTURAL PROPERTY RELIEF AND BUSINESS PROPERTY RELIEF

This module covers:

- An overview of the regime for inheritance tax (IHT) specific to agricultural and business property relief
- Which assets qualify for agricultural property relief (APR) and which do not, and the rate at which the relief may be claimed
- The main limitations on APR
- The extent of business property relief (BPR) and the main exceptions to that relief
- The rules under which APR and BPR may be clawed back and the exceptions to those rules

By the end of this module you should be able to:

- State what property qualifies for APR or for BPR
- State the rates at which APR and BPR are available and when each rate applies
- Identify the period for which a person must hold property in order to qualify for APR or BPR
- Explain the broad principles of valuation of business and agricultural property
- State the chief exceptions to APR and BPR
- Define what is meant by 'clawback' and explain broad terms when it may apply

MODULE 9: THE CHARGE TO INHERITANCE TAX (IHT) ON DEATH: EXEMPT TRANSFERS AND THE BURDEN OF TAX ON BENEFICIARIES

This module covers:

- How IHT is charged on death and how the property is affected
- Which liabilities may be deducted from the estate at death for IHT purposes and which may not
- The categories of transfer that are exempt from IHT on
- Who suffers tax by payment from an inheritance, and how the burden of tax is divided between different beneficiaries

By the end of this module you should be able to:

- Describe how IHT is charged on death, bearing in mind the exemptions that may apply
- Explain difference between the tax charge on a fund that is subject to a life interest and the charge on a trust interest that has not yet come into possession
- State the basic valuation rules as they apply to the charge to IHT on death
- Identify the basic rules that apply when there is a gift with reservation, whether by way of a reservation out of the gift or by way of subsequent borrowing
- Explain the general principles of 'double grossing'
- Describe the 'attribution rules'
- Explain the possibilities of claiming relief on heritage property and the restrictions that apply to new gifts of that kind of asset
- Describe how the burden of tax is shared among the beneficiaries and how to make simple calculations of it.
- Explain how inheritance tax may affect pension schemes

MODULE 10: THE USE OF DISCLAIMERS AND DEEDS OF VARIATION IN RELATION TO INHERITANCE TAX (IHT) AND CAPITAL GAINS TAX (CGT)

This module covers:

- How disclaimers and deeds of variation may affect the tax payable
- The essential conditions for tax-efficient deeds of variation

By the end of this module you should be able to:

- List the differences between disclaimers and deeds of variation
- Explain the principles by which IHT may be saved through the use of disclaimers and deeds of variation
- Explain some of the legal pitfalls of this area and in particular the limitations of the Hastings-Bass rule

MODULE 11: THE REGIME FOR TAXING TRUSTS

This module covers:

- How trusts suffer IHT, under two different regimes depending on when they were set up
- How tax on trusts is administered
- The special position of pre-22 March 2006 trusts

By the end of this module you should be able to:

- Describe the scheme of charging IHT on trusts under both the periodic charge regime and exit charge regime
- Explain the transitional rules for pre-22 March 2006 trusts
- Identify the circumstances in which the charge to IHT on a trust may be very small or even nil

MODULE 12: SELF - ASSESSMENT: PRACTICE AND PROCEDURE

This module covers:

- Routine tax compliance
- How to use the rules of full disclosure
- The penalty regime

By the end of this module you should be able to:

- Evaluate the implications of self-assessment for Trustees and their advisers
- Describe the routine tax administration of Trusts
- Explain how enquiries begin, are conducted, and concluded
- Identify the basic record-keeping requirements for Trusts and estates
- Describe the penalty system including the new regime
- State the dates by which returns must be filed, and how disclosures and payments of tax should be made

MODULE 13: THE FOREIGN ELEMENT: RESIDENCE AND DOMICILE

This module covers:

- The basic rules of residence and ordinary residence
- The residence rules for trustees
- Where a taxpayer may be domiciled

By the end of this module you should be able to:

- Explain the circumstances in which residence may be temporary or permanent
- Evaluate the relevance of employment to residence and domicile
- Summarise and analyse HMRC's views as set out in IR 20
- Explain the differences between domiciles of origin, choice and dependency, and deemed domicile
- Describe the problems in determining domicile for individuals who have lived in different countries, and understand the tax implications
- Calculate IHT liabilities where a non-domiciled registered legal partner is concerned
- Explain some relevant case law

MODULE 14: THE ADMINISTRATION OF CAPITAL TAXATION AND PENALTIES

This module covers:

- The administration of capital taxation
- The system for collection of inheritance tax, including the regime for payment by instalments
- The penalty regime

By the end of this module you should be able to:

- Describe how capital taxation is administered
- Identify low-value and excepted estates and explain how to deal with them
- Identify the duties of care owed by a personal representative
- Evaluate the importance of correctly valuing a deceased's estate and of making full enquiries of relatives, trustees and business associates
- State how IHT is calculated and paid on deceased estates
- Explain the main penalty provisions and how to avoid them

MODULE 1: BASIC PRINCIPLES

This module covers:

- Why trustees and personal representatives should keep accounts
- The principles of estate accounting
- The principles of trust accounting

By the end of this module you should be able to:

- Describe the elements of estate accounts
- Write up the analysed cash book
- Write up the estate capital account
- Write up the estate income account
- Write up the trust capital account
- Write up the trust income account
- Prepare a balance sheet

MODULE 2: CAPITAL AND INCOME

This module covers:

- How to allocate receipts and payments between capital and income

By the end of this module you should be able to:

- Explain the need for a distinction between capital and income
- Explain how tax payments are attributed, with an example of an exception to the rule that income tax is a charge on income
- Define which categories of professional fees should be charged either to capital or income
- Describe the main areas of confusion relating to the position in an estate at the date of death

MODULE 3: ESTATE ACCOUNTS

This module covers:

- What accounting and other basic records should be kept in the administration of an estate
- Who is entitled to receive and approve estate accounts
- How to prepare a set of estate accounts from the information in the cash-estate book and other records

By the end of this module you should be able to:

- Describe the role and duties of the PR in accounting for the assets belonging to the estate
- Explain what is meant by the terms 'capital account' and 'income account' and which funds should be contained in each
- Identify when and in what circumstances accounts should be presented to PRs and beneficiaries
- State by whom and in what manner the accounts are approved
- Identify the objectives of a well-organised set of accounts
- Describe the various adjustments that will need to be made to the Capital Account
- Define the purposes of an Income Account and the 'best practice' for maintaining its records
- Describe a 'distribution account' and how this can be used to achieve confidentiality

MODULE 4: TRUST ACCOUNTS

This module covers:

- How the principles in the accounting for estates apply to trusts

By the end of this module you should be able to:

- State the overriding principles and objectives in preparing and maintaining trust accounts
- Identify which documents and information are incorporated into the trust accounting file
- Describe the constitution of a set of standard trust accounts and trust distribution statements

MODULE 5: RELEVANT PROPERTY TRUSTS

This module covers:

- The principal trusts for which accounting may be required in modern trust practice

By the end of this module you should be able to:

- Identify the principal trusts for which accounting may be required in modern trust practice

MODULE 6: TRUSTS FOR CHILDREN

This module covers:

- The special rules relating to the accounting treatment of testamentary trusts for children

By the end of this module you should be able to:

- Identify the characteristics of a testamentary trust for children
- Explain the accounting provisions relating to testamentary trusts for children
- Ascertain when tax at the rate payable by trustees should be calculated and into which account it should be paid
- Describe where liability falls in respect of income tax for trust income

MODULE 7: TRUST ADMINISTRATION

This module covers:

- An introduction to the law governing the investment of a trust fund by trustees
- The manner in which the law is applied in practice to create the investment portfolio
- Distribution of the income and capital of a trust fund among the beneficiaries
- Trustees' duty to account to beneficiaries and to disclose information

By the end of this module you should be able to:

- State the extent of the power of trustees to invest trust funds
- Describe the limitations imposed on that power by the concept of prudent investment
- Explain the ability of trustees to delegate to agents the power of investment
- Explain the need to monitor and keep under review an agent to whom authority is delegated
- Describe the duties and discretions affecting trustees when considering distributions
- Identify the extent of the duty of a trustee to account to beneficiaries for the stewardship of the trust and the trust assets

MODULE 8: VALUATION

This module covers:

- How trustees and personal representatives should value assets
- How valuations are used in trust and estate accounts

By the end of this module you should be able to:

- Describe the basis of how different assets are valued for probate and appropriation purposes
- Assess and identify the appropriate valuation that is suitable for particular circumstances and the implications of so doing

MODULE 9: APPORTIONMENTS

This module covers:

- The various statutory and equitable rules that can affect the allocation of funds between capital and income, where the beneficial interests in capital and income are different
- The calculations that are required in carrying out such apportionments

By the end of this module you should be able to:

- Explain why apportionment between capital and income was once perceived as fundamental, yet is now seen as an outdated concept
- Explain why practitioners must still be aware of the rules relating to apportionment
- State and apply the statutory provisions relating to apportionment
- Demonstrate a knowledge of equitable apportionments and the relevant case law
- Describe the rationale behind the treatment of the enhanced scrip dividends option when taken up by a life tenant

MODULE 10: MISCELLANEOUS

This module covers:

- A variety of points not considered elsewhere in this course and to know when they apply in the accounting for trusts and estates

By the end of this module you should be able to:

- Identify the principles underlying abatement and the steps to be taken if there is a deficiency in residue
- State the issues relating to insolvency
- Explain the provisions of s41 Administration of Estates Act 1925 with regard to the appropriation of assets

CONTACT US

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